

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

FILED IN CLERK'S OFFICE  
U.S.D.C. Atlanta

OCT 23 2013

JAMES N. HATTEN, CLERK  
By: *J. Br...* Deputy Clerk

DELROY OLIVER DAVY,  
Petitioner,

v.

CRIMINAL CASE NO.: 1:09-CR-543-JOF

UNITED STATES OF AMERICA,  
Respondent,

JUDICIAL NOTICE I

NOW COMES the incarcerated Petitioner, Delroy Oliver Davy, (hereinafter DAVY), pro se, and gives judicial notice of a re-filing of his original § 2255 in its proper form and in support DAVY asserts the following:

Davy is not educated in the ways and means of federal law, preperation and filing of legal briefs or documents.

On May 29, 2013, the Sentencing Court denied DAVY'S § 2255 Motion, but did so without prejudice by making a formal desposition of the merits as required by Rule 4 of the Rules of § 2255 proceedings. In other words, DAVY'S denial could not have been properly summarily dismissed without review of the merits of his motion under Rule 56 of the Rules of Civil Procedure.

In the event that DAVY'S § 2255 Motion was denied because of failure to present it in its proper form, (preprinted standard form), then the denial should have been noticed by the Clerk of the Court, or the Court, and returned to DAVY for

proper submission with the proper forms for filing the petition for relief, (See Rule 2(b) for § 2255 proceedings.

Upon examination of what was presented to the Court, all that was presented to the Court was a Memorandum Of Law for the § 2255 Motion that was never filed. Meaning there was never a Petition filed to be denied with prejudice or summarily dismissed. Only a Memorandum Of Law in support of what was the missing Petition, was filed.

Therefore, DAVY now gives notice he is requesting the the Court to order the Clerk to supply DAVY with the appropriate forms required for a proper filing of his 28 U.S.C. § 2255.

RESPECTFULLY submitted this 18 day of Oct., 2013.

  
Delroy Oliver Davy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was placed in the Prison Mail Box System addressed to the parties shown below, first class postage prepaid, on this 18 day of Oct., 2013.

  
Delroy Oliver Davy

UNITED STATES ATTORNEY  
75 Spring Street, S.W.  
Atlanta, Georgia 30303